

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 528 OF 2014
IN
FIRST APPEAL NO. 2900 OF 2007
WITH
CIVIL APPLICATION NO. 600 OF 2014
AND
CIVIL APPLICATION NO. 6751 OF 2007

The State of Maharashtra .. Applicant/Appellant
vs.
Damu Rangnath Kumbhar & Ors. .. Respondents

Mr. Yogesh Dabke - AGP for Applicant / Appellant.

CORAM : M. S. SONAK, J.
DATE: 23 FEBRUARY 2017

P.C :

1] The first appeal stood dismissed for non prosecution on 28 January 2008. After delay of 5 years and 2 months, the State has taken out civil application no. 528 of 2014 seeking restoration of the first appeal.

2] The first appeal challenges award dated 23 December 2005 made by the Reference Court awarding enhanced compensation of Rs.14,125/- in its entirety. There is hardly any proper explanation for the inordinate delay in taking out the application seeking restoration. All that is stated is that the Office of the Government Pleader was in correspondence with revenue authorities in the matter of preparation of paper book. Such correspondence, relates

to the period prior to 28 January 2008, which was the date of the conditional order or for some period thereafter. However, there is no explanation for delay of 5 years and 2 months for seeking restoration. In the meanwhile, it appears that respondent no. 1 has expired and there is civil application taken out again, after delay of 4 years, 11 months and 11 days, seeking condonation of delay for setting aside abatement and seeking leave to bring on record the legal representatives of such deceased respondent.

3] There is no sufficient cause shown for condonation of delay of 5 years and 2 months in seeking restoration. The amount of compensation involved in the main appeal is Rs.14,125/-. The appeal relates to the year 2007. Reasoning in the ***Order dated 6 February 2017 in Civil Application No. 5080 of 2001 in First Appeal (Stamp) No. 12511 of 1999 [The State of Maharashtra vs. Jagannath Sahebrao Wabale]***, is applicable to the facts and circumstances of the present case as well.

4] Accordingly for all the aforesaid reasons, the civil application no. 528 of 2014 seeking condonation of delay for restoration of appeal is dismissed. As a consequence, the order for dismissal of the first appeal stands. The pending civil applications do not survive and are also disposed of. Interim order, if any, is hereby vacated.

(M. S. SONAK, J.)